

REMARKS

Claims 1-3 were pending in this application. All of the pending claims were rejected. Claims 1 and 2 are currently amended. Claim 3 is now cancelled. Reconsideration and further examination are requested.

Claim 1 was rejected based on Kallio in view of Bhatoolaul, and further in view of Feder. The Examiner asserts at page 4 that Kallio teaches the claimed announce messages because “the **terminal device**, which is in page scan mode, responds to the paging packets by transmitting a packet that includes” (emphasis added) Claim 1 has been amended to clarify that it is the **fixed location wireless devices**, e.g., access points or base stations, which transmit announce messages, not the mobile terminal devices. Claim 1 therefore distinguishes the cited combination.

Claim 1 further distinguishes the cited references because the announce messages include an indication of power attenuation. In particular, the announce messages include an indication of the magnitude by which transmission power is intentionally reduced by the fixed location device. This limitation was added in the previous amendment, but was overlooked by the Examiner as shown by the quote of pre-amendment claim language in the arguments at page 4 of the Office Action. Since there is no mention of the limitation in the arguments, it follows that the limitation was not considered when the office action was prepared. Applicant submits that the next action, if not a Notice of Allowance, cannot properly be a final rejection since the limitation was not considered by the Office.

Claim 1 further distinguishes the cited references by reciting that the indication that the receiving device is capable of providing better service is calculated as a function of magnitude of intentional transmission power attenuation by the particular fixed location device. Applicant is

unable to find any teaching of transmission power attenuation in the cited references, and particularly finds neither an indication of such in an announce message from a fixed location device, nor use of such by a mobile terminal to calculate which fixed location device will provide better service.

Claim 2 is a dependent claim which is allowable for the same reasons as claim 1.

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible. For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date

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